

MINUTES

ALCOHOL AND TOBACCO COMMISSION

MARCH 15, 2005

CALL TO ORDER/NOTING OF QUORUM

Chairman Heath called the meeting to order and noted the quorum and the attendance. Present were Vice Chairperson Brizzi and Commissioner Sturtz. Also in attendance were Industry Liaison Okey, Executive Secretary Choe and Superintendent Huskey.

Mark Webb and Mike Curtz of ILBA, Jerimi Ullom, Jim Purucker of WSWI, Lisa Goldner of Bose McKinney and Evans, Grant Monahan of IRC and Matthew Kirby of IABR were present as observers.

DISPOSITION OF MINUTES

Commissioner Sturtz moved to approve the minutes that were submitted for the March 1, 2005 meeting. Motion seconded by Vice Chairperson Brizzi and it was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

PARTIES AGREED DISPOSITION (PAD) FORMS – Vice Chairperson Brizzi moved to approve the PAD forms that were submitted for the March 15, 2005 meeting. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR75-04189 A.B.D.J., INC. D/B/A WOODEN NICKEL – Chairman Heath moved to reschedule this matter for another hearing, due to the fact that the hearing judge didn't provide any reason for the dismissal of the charges. Commissioner Sturtz seconded the motion and it was unanimously approved.

Hearing Judge Choe stated for the record that she recommended that the Commission dismiss the charges in this case.

DL84-20757 CASEY'S ENTERPRISES, LLC – Hearing Judge Choe stated that this was a recommended denial by the Vigo County Local Board and an upholding of that denial by the Commission. The applicant filed a timely notice of appeal and the matter was set for appeal hearing. The Hearing Judge now submits Proposed Findings of Fact and Conclusions of Law recommending that the local board be reversed due to the fact that their findings are unsubstantiated by the evidence presented in this case.

Vice Chairperson Brizzi moved to uphold the recommendation of the hearing judge and approve the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RC20-12702 SAMUEL BARNES VFW #9944 – Hearing Judge Choe stated this was a recommended denial by the Elkhart County Local Board and an upholding of that recommendation by the Commission. The permittee filed a timely notice of appeal and the matter was set for hearing. The hearing judge now submits Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Chairman Heath moved to remand this renewal application to the local board for further review to see if any of the proposed changes have been made to the operation of this establishment. The Chairman stated he received multiple phone calls and comments from the area regarding this matter. Motion seconded by Vice Chairperson Brizzi and it was unanimously approved.

CONSIDERATION OF APPLICATIONS

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

I incorporate by reference these lists of permit applications for catering and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

Five hundred thirty-eight (538) renewals approved, fifty-four (54) new and/or transfer permits approved, twenty-two (22) permits conditionally approved, three (3) permits approved for catering, five (5) permits approved for first year escrow, seven (7) permits approved for second year escrow, three (3) permit approved for third year escrow and four (4) permits approved for fourth year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Commissioner Sturtz moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Vice Chairperson Brizzi and it was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR43-97405 HOGGLE’S, INC. – Vice Chairperson Brizzi noted this is a type 210-1 renewal application with the local board voting four (4) to zero (0) to approve.

Vice Chairperson Brizzi moved to uphold the local board’s recommendation and approve the renewal. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR49-18584 JK ROYALTY ENTERPRISES, INC. D/B/A KELLY’S PUB – Vice Chairperson Brizzi noted this is a type 209 renewal application with the local board voting three (3) to one (1) to disapprove.

Vice Chairperson Brizzi moved to uphold the local board’s recommendation and deny the renewal application. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL31-21286 WAL-MART STORES EAST, LP – Vice Chairperson Brizzi noted this is a new type 208-3 application with the local board voting two (2) to two (2).

Vice Chairperson Brizzi moved to disapprove the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

INACTIVE FILES

Vice Chairperson Brizzi moved to make ninety (90) permits inactive. Sixty-two (62) permits are not subject to auction and twenty-eight (28) permits are subject to auction. Motion seconded by Commissioner Sturtz and it was unanimously approved.

APPEALS FROM LOCAL BOARD RECOMMENDATIONS

No appeals from Local Board Recommendations

OLD BUSINESS

No Old Business

NEW BUSINESS

No New Business

POLICY DETERMINATIONS

No Policy Determinations

UNDER ADVISEMENT

Nothing Under Adviseement

ANNOUNCEMENTS

No Announcements

ADJOURNMENT

Vice Chairperson Brizzi moved to adjourn the meeting. Motion seconded by Commissioner Sturtz and it was unanimously approved.

Approved this _____ day of _____, 2005.

DAVE HEATH, CHAIRMAN

MELANIE BRIZZI, VICE CHAIRPERSON

DALE STURTZ, COMMISSIONER